



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 19/07/2021

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.9531 of 2021
(Through Video Conference)

Arulraj ... Petitioner/ Accused No.2

Vs

State rep. By
The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.
Crime No.426/2021. ... Respondent/ Complainant

For Petitioner : Mr.N.Mohideen Basha, Advocate.

For Respondent : Mr.M.Muthumanickam,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

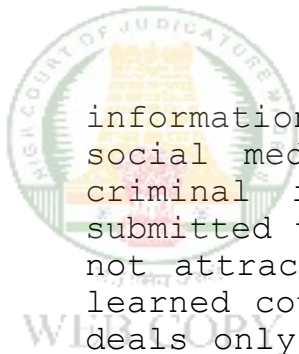
PRAYER:- For Anticipatory Bail in Crime No.426 of 2021 on the file of the respondent police.

ORDER: The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 506(ii) of IPC and Section 67 of Information Technology Act, in Crime No.426 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is a functionary in AIADMK party. He found in social media a post paying obituary to Mr.Kadambur Raju, Former Minister. That post was circulated by the accused Sankarasubbu and Arulraj. On 01.07.2021, at about 07.00 pm., when the defacto complainant asked the accused as to why they made false post paying obituary in social media, the accused scolded in filthy language and criminally intimidated him. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. Except the allegation that he had also disseminated the



information with regard to paying obituary to Mr.Kadambur Raju in social media, there is no specific allegation that he had made criminal intimidation to the defacto complainant. He further submitted that Section 67 of the Information Technology Act, 2000 is not attracted to the facts of the present case. According to the learned counsel, Section 67 of the Information Technology Act, 2000 deals only with publication or transmission in electronic form, any material which is lascivious or appeals to the prurient interest or its effect is such as to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it. Therefore, he seeks anticipatory bail for the petitioner.

4.The learned Government Advocate (Crl.side) for the respondent strongly opposed this petition on the ground that investigation is not completed.

5.Taking note of the allegations made against the petitioner that he along with other accused disseminated the alleged false news of death Mr.Kadambur Raju, the fact that there is no allegation that the petitioner also made criminal intimidation and the legal submission that Section 67 of the Information Technology Act, 2000 is not attracted to the present case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. The application of Section 67 of Information Technology Act, 2000, to the facts of the case is left open for consideration in trial.

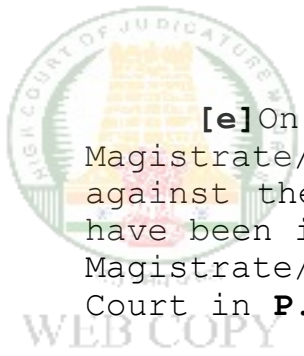
6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.2, Kovilpatti, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a]the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b]the petitioner shall report before the respondent police, daily at 10.30 a.m., until further orders;

[c]the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d]the petitioner shall not abscond either during investigation or trial;



[e]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**;

[f]If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

19/07/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.2, KOVILPATTI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,
KAYATHAR POLICE STATION,
THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.9531 of 2021

Date :19/07/2021

MBI

MS/JM/SAR-2/26.07.2021/3P.5C